

MARION A. SELTZER  
Attorney at Law  
1725 York Avenue -Suite 16B  
New York, New York 10128

Telephone: (212) 289-8798  
Fax: (212) 410-9443

E-mail: [Sammyjacob@aol.com](mailto:Sammyjacob@aol.com)

September 7, 2012

Hon. Allyne R. Ross  
United States District Judge  
225 Cadman Plaza East  
Brooklyn, New York 11201

By ECF and Hard Copy

Re: USA v Nicholas Suarez 11 CR 353 (ARR)

Dear Judge Ross,

I write to request an adjournment of the sentencing date of Nicholas Suarez, presently scheduled for September 17, 2012. On August 1, 2012, I filed a sentencing memorandum which in part was based on Judge Weinstein's opinion in U.S.A. v "CR", 792 F. Supp. 2d 343 (EDNY 2011), a case similar to that of Nicholas Suarez'. Judge Weinstein held that under the facts and circumstances of "CR," the statutory mandatory minimum 5-year sentence for the distribution of child pornography amounted to cruel and inhuman punishment in violation of the Eighth Amendment.

*USA v "CR"* was argued before Judges Raggi, Lohier, and Sack of the Second Circuit Court of Appeals on May 4, 2012. To date, there has been no decision. I believe that a decision by the Second Circuit affirming Judge Weinstein in "CR" would have great relevance at the sentencing proceedings of Nicholas Suarez. If Mr. Suarez is sentenced and then Judge Weinstein is affirmed, irreparable harm could result.

Mr. Suarez is presently enrolled in the Fall 2012 semester Queens College and attending as a full-time student. His summer job as LaGuardia Community College will end next week, and if sentencing is adjourned he will seek another part time job until he is sentenced.

Respectfully yours,

*Marion Seltzer*